

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE MAXINE M. CHESNEY

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) No. CR 18-0465 MMC
)
UNITED MICROELECTRONICS)
CORPORATION AND FUJIAN JINHUA)
INTEGRATED CIRCUIT CO. LTD,)
) San Francisco, California
Defendants.) Wednesday
) July 8, 2020
) 2:15 p.m.

TRANSCRIPT OF AT&T TELECONFERENCE PROCEEDINGS

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE
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ASSISTANT UNITED STATES ATTORNEY

For Defendant UMC: LATHAM & WATKINS LLP
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BY: LESLIE CALDWELL, ESQ.

For Defendant Fujian: MORRISON & FOERSTER LLP
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San Francisco, California 94105
BY: CHRISTINE WONG, ESQ.

(APPEARANCES CONTINUED ON FOLLOWING PAGE)

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For Defendant Fujian: SKADDEN ARPS SLATE MEAGHER & FLOM LLP
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1 WEDNESDAY - JULY 8, 2020

2:15 p.m.

2 P R O C E E D I N G S

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4 **THE COURT:** Good afternoon, everyone. This is Judge
5 Chesney.

6 We're proceeding telephonically in the case of USA versus
7 United Microelectronics and Fujian Jinhua. We're proceeding
8 telephonically because we're currently under national and
9 orders issued by the Northern District of California. We
10 cannot conduct proceedings in criminal cases of this nature in
11 person without jeopardizing the health and safety of both the
12 participants in these proceedings and the public in general.

13 It's my understanding that everyone preferred that we not
14 try and find a video slot in the more limited time frames that
15 are viable and conduct this proceeding telephonically. I want
16 to confirm that when we find out who is appearing for
17 everybody.

18 Can I start with the Government? Who is appearing for the
19 Government this afternoon?

20 **MS. VARTAIN:** Hello, Your Honor. It's Laura Vartain
21 for the United States. And I'm confirming that we're fine
22 appearing telephonically. Thank you.

23 **THE COURT:** Thank you very much.

24 For the defendants. Let's start, I guess, with
25 Microelectronics.

1 **MS. CALDWELL:** Good afternoon, Your Honor. It's
2 Leslie Caldwell on behalf of United Microelectronics, and we
3 also are fine with the telephonic conference.

4 **THE COURT:** Very good. Thank you.
5 For Fujian Jinhua.

6 **MS. WONG:** Good afternoon, Your Honor. It's
7 Christine Wong appearing on behalf of Fujian, and we are also
8 are fine with appearing telephonically.

9 **THE COURT:** All right. Very good.
10 This was published on --

11 **MR. DICANIO:** Your Honor? Your Honor, if I may.
12 Jack DiCanio from Skadden Arps also appearing for Jinhua. It
13 is also fine with the telephonic appearance.

14 **THE COURT:** Okay. We've got a bunch of names on the
15 calendar. I don't think I have yours. Can you spell your last
16 name?

17 **MR. DICANIO:** Sure. It's DiCanio, D-I-C-A-N-I-O.

18 **THE COURT:** Oh, I'm sorry. You are. Thank you.
19 Okay. Anybody else appearing for Fujian and Jinhua?
20 (No response.)

21 **THE COURT:** All right. Thank you.
22 I understand there may be lawyers from one or the other of
23 the firms that are also participating by just listening, but
24 don't intend to make an actual appearance on behalf of the
25 client. That's fine. We did publish on the docket that this

1 is a public proceeding and published the number for calling in,
2 as it was a criminal case.

3 Beyond that I -- oh, we also have, I'm sorry, Ms. Geiger,
4 our Courtroom Deputy. Are you on the phone?

5 **THE CLERK:** Yes, I am, Your Honor.

6 **THE COURT:** Very good.

7 And I believe our court reporter Debra Pas, are you here?

8 **THE COURT REPORTER:** Yes, I'm here. Thank you.

9 **THE COURT:** That's Debra Pas. I think we have
10 everyone that we need.

11 All right. I don't know too much more about it. I
12 believe the individual defendants in the case apparently now
13 have warrants issued or about to be issued for them, and that's
14 about all I know at this point.

15 So perhaps someone would like to start and give me some
16 idea of what they understand the current status to be?

17 **MS. VARTAIN:** Sure, Your Honor. This is Laura
18 Vartain for the United States. I'm happy to do that.

19 When we were last in front of Your Honor via Zoom, we
20 discussed setting a status conference and were predominantly
21 focused on the status of discovery.

22 Since that status conference, the Government has continued
23 to produce discovery. Today we're producing a significant
24 batch of discovery that concerns evidence that the Government
25 has obtained from Taiwan.

1 As the Court is aware, the conduct in this case largely
2 concerns the nexus to Taiwan, and so this is a key batch of
3 evidence that has gone out to UMC and to Jinjua.

4 In addition, we have -- we will continue to produce
5 discovery.

6 I think I alluded to the fact last time that our regional
7 crime lab was shut down. It is back up and running,
8 facilitating discovery, which is why the drives were able to go
9 out today. And I anticipate that we will produce email
10 accounts.

11 We have requested trial transcripts from the trial in
12 Taiwan, which recently concluded and which -- and the judgment,
13 which is available. We will obtain those. We will translate
14 them and we will produce them in discovery.

15 I think, as I understand from speaking with both Ms. Wong
16 and Ms. Caldwell, the parties are endeavoring to come back in
17 September, and I understand from Ms. Wong that between now and
18 then she would like to meet-and-confer about trial schedule, as
19 well as any motions that the defense would like to file. I'm
20 agreeable to that and I look forward to discussing further.

21 **THE COURT:** Thank you.

22 What was the results of the trial in Taiwan?

23 **MS. VARTAIN:** Yes. The -- the individual defendants
24 were not in a precise overlap with those in this case. Kenny
25 Wang and J.T. Ho, who are charged in this case, were also

1 charged in Taiwan, and they were convicted in Taiwan and
2 sentenced to multiple years in prison. I understand that both
3 intend to appeal that decision, and as well as conviction
4 against UMC.

5 Jinjua was not charged in that case, and so nothing to
6 comment on that front.

7 **THE COURT:** All right. Thank you. And I'm glad to
8 hear the lab suspense and running.

9 All right. Why don't we -- I don't know, Ms. Caldwell do
10 you want to add to this in any way?

11 **MS. CALDWELL:** No. I think that was an accurate
12 summary. Thank you, Judge.

13 **THE COURT:** Thank you.

14 Ms. Wong or Mr. DiCanio?

15 **MS. WONG:** Yes, your Honor. It's Miss Wong speaking
16 here.

17 I just want to add a little color to why we suggested to
18 the Government and UMC that we start discussing a potential
19 schedule. As the Court may be aware, at the same time that the
20 Government brought this criminal case against our client, the
21 Commerce Department placed our client on the entity list, which
22 effectively shut down our client's business. And given that
23 this matter has been pending for such a long period, we're
24 obviously keenly interested in having this case move forward.

25 And so to that end, while we understand that the

1 Government is continuing to produce additional discovery --
2 and, in fact, just before this call we sent a letter to the
3 Government following up on various past discovery requests --
4 that is why we proposed to the Government and UMC that we start
5 discussing a potential schedule that would culminate in a trial
6 date.

7 We greatly appreciate Ms. Vartain and Ms. Caldwell's
8 willingness to have that discussion, and we look forward to
9 coming back to the Court with a proposed schedule.

10 **THE COURT:** All right. I can understand. The case
11 has been pending for close to two years, I guess, at this
12 point.

13 What date in September were you looking at?

14 **MS. WONG:** Ms. Caldwell and I talked about
15 September 9th. I didn't have a chance to run that by
16 Ms. Vartain. And I'm not sure if your Honor is available on
17 that date, but that's -- that's the date I would propose.

18 **THE COURT:** I'm not planning on going anywhere.
19 Yeah. I mean, I'll be here, as far as I can tell.

20 There is a holiday on the 7th, but, you know, the 9th is a
21 regular court day.

22 But, Ms. Vartain, did you have a chance to hear about that
23 date earlier. How does that fit with your schedule?

24 **MS. VARTAIN:** That date is just fine. Thank you,
25 Your Honor.

1 **THE COURT:** All right. Well, why don't I then do
2 this. I'll put the matter over until September 9, this year,
3 for further status.

4 Again, because we're so far from what ordinarily would be
5 a speedy trial deadline. Are there grounds for effective
6 preparation to exclude time from the running of the speedy
7 trial clock?

8 **MS. VARTAIN:** Yes, Your Honor. Laura Vartain for the
9 Government.

10 The production of the discovery and the continued review
11 by the defense is the grounds for exclusion of time, and I
12 propose that we exclude time until the next court appearance.

13 **THE COURT:** Is there any objection to that on behalf
14 of either of the defendants?

15 **MS. CALDWELL:** No objection on behalf of UMC, Your
16 Honor.

17 **MS. WONG:** No objection on behalf of Fujian Jinjua.

18 **THE COURT:** All right. Thank you.

19 Then I will continue the matter to the date indicated, and
20 exclude time from the running of the speedy trial clock through
21 that date for effective preparation of counsel for the dates
22 that have been described on the record.

23 This is a relatively short conference at the moment. If
24 there is nothing else, then I will recess, but while -- you
25 know, while I have everybody here, if there is anything else

1 that you feel needs to be addressed, I'm happy to hear what it
2 is.

3 Let me ask from the Government. Anything else,
4 Ms. Vartain?

5 **MS. VARTAIN:** No. Thank you, Your Honor.

6 **THE COURT:** Ms. Caldwell?

7 **MS. CALDWELL:** No, Your Honor. Thank you.

8 **THE COURT:** Thank you.

9 Ms. Wong.

10 **MS. WONG:** No, Your Honor. Thank you.

11 **THE COURT:** All right. Very good. Then that will
12 conclude the conference.

13 Apparently, everyone is staying well. That's good.
14 Continue to do so. And thank you very much. I hope at some
15 point we can meet in person. Until then, thank you.

16 At least until the September 9th, we're recessed on this
17 case. Thank you.

18 (Proceedings adjourned.)
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CERTIFICATE OF OFFICIAL REPORTER

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

Debra L. Pas

Debra L. Pas, CSR 11916, CRR, RMR, RPR

Tuesday, September 15, 2020